

U.S. Application Serial No. 09/599,355

R E M A R K S

The present response is responsive to the Official Action dated January 27, 2005, wherein the Examiner continues to reject pending claims 1-20, as being unpatentable over Pecen et al., US Patent No. 6,529,525, in view of one or more of Kronstedt et al., US Patent No. 6,310,866; Pecen et al., US Patent No. 6,282,182; and Wang et al., US Patent No. 6,526,033. However, the rejection continues to be inappropriately applied to the present application, in so far as Pecen et al., US Patent No. 6,529,525, the principal reference relied upon by the Examiner in support of the rejection, does not constitute an appropriate reference upon which to base an obviousness type rejection under 35 U.S.C. §103(a), in view of the common ownership of the reference and the present application, and/or an obligation to assign the same to a common owner.

The applicants additionally hereby affirmatively state, that at the time the invention was made, relative to each of the above noted reference and more importantly the present application, the corresponding reference and present application was owned by the same person, namely Motorola, Inc., and/or there was an obligation to assign to the same person, such that the same would qualify as having been commonly owned, as provided by 35 U.S.C. §103(c). Assignment recordation information was supplied as part of the previous response. However such a statement should continue to be and should have been unnecessary, where in accordance with the Examiner's own assertions, in both the present and the previous Official Actions, common ownership is presumed in absence of any evidence to the contrary. The Applicants acknowledge their duty to point out and/or supply any information that might suggest that any of the claims were not commonly owned at the time of the later invention. However, the applicants would contend that no such information exists, and/or that they are unaware of any such information. Consequently, in absence of any such information, as the Examiner has already correctly noted, the reference and the present application are presumed to be commonly owned, and as a result, the reference is precluded from being relied upon in support of a rejection under 35 U.S.C. §103(a).

Each of the rejections raised by the Examiner, relative to the claims, relies upon Pecen et al., '525, as a basis for the rejection. Consequently, the applicants' assertions that the Examiner has failed to allege a proper rejection continues to be valid, with or without the statement the

U.S. Application Serial No. 09/599,355

Examiner alleged was missing from the previous response, but nevertheless is supplied by the applicants, herein, as part of the present response.

In absence of any properly presented and/or supported rejection of the claims, a rejection of the present application is inappropriate. In view of the above noted remarks, the applicants would respectfully request that the Examiner reconsider and reexamine the claims pending in the present application. Given that the Examiner has failed to present and/or maintain even a single properly supported rejection, the finality of the rejection should similarly be withdrawn. Should any issues remain unresolved after the consideration of the present response, the Examiner is requested to contact the applicants' representative at the number listed below to discuss the same.

Respectfully submitted,

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